

Cummins, Albert Baird
The transportation act,
1920

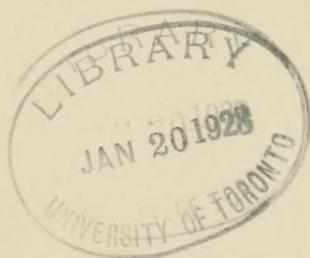
KF
2289
.3
C8

THE
TRANSPORTATION ACT,
1920

By

A. B. CUMMINS,
UNITED STATES SENATOR

October 31, 1922





KF
2289
.3
C8

Digitized by the Internet Archive
in 2009 with funding from
Ontario Council of University Libraries

THE TRANSPORTATION ACT, 1920

By A. B. CUMMINS,
United States Senator

October 31, 1922

Senator A. B. Cummins, addressing a meeting of Des Moines and Iowa men and women by invitation, in Des Moines, Monday evening, October 30, 1922, on the subject of the Transportation Act by which the American railroads were transferred from operation by the Government to their owners, said:

Ladies and Gentlemen:

It is my purpose to consider with such brevity as is consistent with clearness some phases of the "Transportation Act, 1920." I shall confine myself in the main to those parts of it concerning which there are differences of opinion. The present political situation in Iowa makes it necessary to submit a preliminary observation.

TRANSPORTATION ACT A NON-PARTISAN SUBJECT.

The regulation by the Government of the United States of our railway transportation never has been and I sincerely hope never will be a partisan subject. It is purely an economic problem and with respect to it every man and woman has an unquestioned right to hold and express an individual opinion without regard to party declarations or party affiliations. I make this statement for the reason that at the present moment the subject has become involved in a political campaign, and the Transportation Act to which I have referred has been drawn in question.

I want it to be distinctly understood that what I am about to say with regard to this Act is not said for or against either of the candidates for Senator of the United States, both of whom have made the Act a prominent part of their respective campaigns. I do not agree with the position assumed by either of these candidates and I am submitting my views to the people of Iowa upon the subject because I represent them in part in the Senate of the United States and was responsible in a measure for the passage of the Act, and because the regulation of our industries, including railways, will, in my judgment, be the chief matter for consideration in the next session of Congress. Under these circumstances I believe it to be my duty to acquaint the people of the State with the reasons which have controlled my action in the past, and to indicate to them the course I intend to pursue in the future.

Whatever indignation I may feel respecting the flagrant misrepresentations with respect to the legislation under consideration will not influence me in the least degree in this discussion. I intend to treat the subject from an economic standpoint and from that standpoint alone.

OUTLINE OF RAILWAY SYSTEM ON JANUARY 1, 1918.

The briefest sort of outline of the physical character of our railway system on the first of January, 1918, will be helpful in understanding the difficulties with which we had to deal in preparing the legislation of 1920.

When the Government, in the last days of December, 1917, assumed the control and the operation of the railways, we had substantially 265,000 miles of main-track road. It had been constructed practically without any supervision on the part of the Government. It was owned by substantially 900 separate corporations. Some of it was prosperous, some of it bankrupt, some of it in high state of development, some of it poorly built, poorly equipped, and enormously overburdened with capital obligations, but practically all of it absolutely necessary for the tremendous traffic of the country, and to meet the needs of the several communities of the United States. During the first six months of the year 1918 the Government returned to their respective owners something like 30,000 miles of this property, consisting mainly of what are ordinarily known as the short-lines.

FEDERAL CONTROL.

Under the Federal Control Act of 1918, the President was authorized to contract for compensation for the use of the property so taken over and retained. The standard fixed for compensation was the average net operating income of the particular road for the three preceding fiscal years. This standard gave to some of the roads, in my judgment, a great deal more than they were entitled, and to some less than they were entitled.

The Government operated these roads for twenty-six months; it more than doubled the wages of employees and increased the rates of transportation 25 per centum. Its net loss for the entire period, assuming that settlements yet to be made are made upon the same basis as those already made, was at the rate of about \$45,000,000 per month. The law provided and the agreements stipulated to return the roads to their owners at the end of Federal Control in as good condition as they were when taken over on the 1st of January, 1918.

It may be interesting to note that in settlements already made the Government has paid, for under maintenance during Federal Control \$125,428,809—and if future settlements are made

on the same basis it will pay \$97,167,663 more, making a total of \$222,596,472 on this account.

In 1919 the President notified Congress that he would surrender the roads on the 1st of January, 1920, but later modified his notification extending the time to March 1, 1920. It then became the duty of Congress to enact such legislation as was necessary, first, to wind up the affairs of the United States Railroad Administration, and second, as would enable the owners of these properties to give to the people of the country the transportation service which their business imperatively demanded.

It will be remembered that the railroads were being returned to their owners with an average monthly deficit of substantially \$45,000,000 per month. And, also, that for six months before the return applications had been pending before the Director General for a further increase of wages amounting in the aggregate to \$800,000,000 per year. It was well known that all or a large part of this increase would be granted, and in fact when the applications came to be heard by the United States Railroad Labor Board increases in wages were granted, on the 20th of July, 1920, amounting in round numbers to \$650,000,000 per year. It is well to recall at this point that when the Government took over the railroads it took over all their cash balances.

Under these conditions Congress continued what is known as the standard contract for six months; and until September 1, 1920, the Government has paid or will pay to the railroads which applied for it in apt time, the compensation which was paid during the twenty-six months prior to March 1, 1920. It was also agreed by everyone that the railroads would be compelled to borrow immediately immense sums of money to rehabilitate their several properties, for while the Government maintained some of them in reasonably fair condition many of them had been neglected and the equipment especially required the most extensive repairs. We all knew that the credit of even the soundest companies had been seriously impaired, and that it would be impossible for the best of them to borrow money in the immediate future at less than 7 per cent.

This is an outline of the situation, and to meet it and do all that could be done to make it reasonably certain that the railroads would continue to render the service upon which the welfare of the people of the United States absolutely depended Congress passed the Transportation Act, 1920.

I refrain from further discussion of the infinite details of this important measure and proceed directly to the consideration of those parts of the Act which affect freight and passenger rates, only asking you to bear in mind that if rates had not been increased the railroads as a whole would have incurred after the 1st of September, 1920, for a time at least, a monthly deficit of \$100,000,000 per month, and this upon the assumption that nothing had been expended for extraordinary rehabilitation. If

additional revenues had not been provided every railroad in the United States would have been in the hands of a receiver before the 1st of January, 1921, and our system of transportation would have been practically destroyed. It is, I think, generally admitted that many of the advocates of the Government ownership and operation of these utilities, opposed the Transportation Act hoping that the continuance of existing conditions would bring about that result, and I agree that it would have done so.

It is not my intention to inquire into the desirability or wisdom of Government ownership and operation. I limit my comment upon that subject to just one remark. It is this: That if we are to have public ownership of the railroads it ought not to be effected by first physically destroying the efficiency of the facilities of transportation. If there is to be a change in our policy in that respect it can be and ought to be accomplished through constitutional methods, and without subjecting the people to the almost infinite loss that they would suffer if deprived for any considerable period of adequate means of transportation.

THE INCREASE IN FREIGHT RATES.

I approach now the specific objections which many people and particularly many powerful agricultural organizations have made and are making against the Transportation Act. It is claimed that the Act is the direct cause of the high freight rates which were established on the 26th day of August, 1920, and which have been and are so burdensome upon industry. I recognize the hardships which the farmers have suffered, and it is not difficult for me to understand their attitude. For reasons which are not pertinent to this discussion their productions went down in 1920 to pre-war levels or below, and at the same time freight rates were increased to a higher level than ever before. This conjunction of two extraordinary events was the severest blow that ever fell upon any industry, and it is not strange that their efforts to escape the disaster commanded all their thought and energy, and it may be that their extreme trials clouded their judgment when they came to inquire into the cause of their misfortune.

In order that there shall be no obscurity about my position with respect to this matter, I assert that the high freight rates which have oppressed all the people and the farmers particularly are not due to the Transportation Act, 1920, but to other causes over which the Government neither had nor has the least control. I go further and assert that in all probability freight rates would have been higher without the Transportation Act than they are under it. If I can make good these assertions the storm that has been raging in Iowa against this measure ought to disappear and we ought to turn our attention for relief in other directions. In presenting this phase of the subject I

ought immediately and as a premise to all that I may say upon it to declare that I believe in law and order. I believe that the Constitution ought to be respected, and that the decisions of the Supreme Court of the United States in construing the Constitution must be accepted not only by Congress but by all the people. We can amend our Constitution, and have done so many times, but to disregard and defy its provisions, if it were possible to do so, is destructive of every principle of organized society.

I ask now the most careful and unprejudiced attention to that part of the Transportation Act which it is claimed has had the effect of unduly, unreasonably, and unjustly increasing freight rates. I quote the first four paragraphs of Section 422, which added Section 15a to the Interstate Commerce Act.

SECTION 422.

"Sec. 422. The Interstate Commerce Act is further amended by inserting after section 15 a new section to be known as section 15a and to read as follows:

"Sec. 15a. (1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices, relating thereto; the term "carrier" means a carrier by railroad or partly by railroad and partly by water, within the continental United States, subject to this Act, excluding (a) sleeping-car companies and express companies, (b) street or suburban electric railways unless operated as a part of a general steam railroad system of transportation, (c) interurban electric railways unless operated as a part of a general steam railroad system of transportation or engaged in the general transportation of freight, and (d) any belt-line railroad, terminal switching railroad, or other terminal facility, owned exclusively and maintained, operated, and controlled by any State or political subdivision thereof; and the term "net railway operating income" means railway operating income, including in the computation thereof debits and credits arising from equipment rents and joint facility rents.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation; Provided, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it

may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country.

'(3) The Commission shall from time to time determine and make public what percentage of such aggregate property value constitutes a fair return thereon, and such percentage shall be uniform for all rate groups or territories which may be designated by the Commission. In making such determination it shall give due consideration, among other things, to the transportation needs of the country and the necessity (under honest, efficient and economical management of existing transportation facilities) of enlarging such facilities in order to provide the people of the United States with adequate transportation: Provided, That during the two years beginning March 1, 1920, the Commission shall take as such fair return a sum equal to 5½ per centum of such aggregate value, but may, in its discretion, add thereto a sum not exceeding one-half of one per centum of such aggregate value to make provision in whole or in part for improvements, betterments or equipment, which, according to the accounting system prescribed by the Commission, are chargeable to capital account.

'(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the Commission from time to time and as often as may be necessary. The Commission may utilize the results of its investigation under section 19a of this Act, in so far as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to section 19a of this Act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the Commission to be the value thereof for the purpose of determining such aggregate value.'

THE RULE OF RATE-MAKING.

It will be noted that during the first two years of the operation of the Act, namely, until March 1st, 1922, the Interstate Commerce Commission is directed to take as a fair return five and one-half per centum upon the aggregate value of the railroad property, and that, in its discretion, it was authorized to add one-half of one per centum to make provision in whole or in part for improvements, betterments, and equipment, which, according to the accounting system prescribed by the Commission, are chargeable to capital account. This means, of course, that not more than five and one-half per centum could be raised for distribution either as interest upon bonds or dividends upon stock. It is to be observed, first, that this proviso of paragraph

3 of the section expired on the 1st of March, 1922, and is not in any manner responsible for the rates which now prevail. I do not, however, say this in apology for it. It is absolutely sound economically. It is in no sense a guarantee. It is simply a declaration by Congress that in its judgment a return of five and one-half per cent would meet the Constitutional requirement that private property shall not be taken for public use without just compensation.

The period immediately following the transition from Government operation to private operation was chaotic, and it was believed that this rule of rate-making would have the double effect of steadying the credit of the railroad systems which were in complete disorder, and at the same time bar the insistence upon the part of the railroads that in view of the high interest rates which they were compelled to pay and the reduced purchasing power of money when applied to both labor and material, for a higher rate of return. In my judgment it fulfilled both these purposes, and it enabled the railroads to render the service without which all business would have been paralyzed. **I repeat that it is not a guarantee** as at once must be admitted when it is remembered that during the year 1920 the net operating income of all the roads was less than one-third of one per cent, and during the year 1921 and the first two months of 1922 the net operating income of all the roads was substantially three and three-tenths per cent, and no one contends or has ever suggested that the Government is under any obligation to make up the difference between the actual net earnings of the railroads and the five and one-half per cent.

With this statement for the period ending March 1, 1922, let us examine that part of the law which is permanent in its duration. The statute as now in force provides: "In the exercise of its power to prescribe just and reasonable rates the Commission shall initiate, modify, establish or adjust such rates so that the carriers as a whole (or as a whole in each of such rate groups or territories as the Commission may from time to time designate) will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment earn an aggregate annual net railway operating income equal, as nearly as may be, to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation: Provided, That the Commission shall have reasonable latitude to modify or adjust any particular rate which it may find to be unjust or unreasonable, and to prescribe different rates for different sections of the country."

In every respect save one the paragraph just quoted is the declaration of the Constitution as construed again and again by the Supreme Court. That Court has many times announced that a rate or body of rates prescribed by a Congress, a Legislature, or a Commission which does not allow a fair return upon

the value of the property which renders the service is confiscatory and unconstitutional. It has more than once set aside a body of rates which allowed a greater rate of return than the railroads have received since September 1, 1920.

It is quite impossible to perceive the justice of a criticism upon this part of the law for it is nothing more than an accurate repetition of the Constitution and the repeated decisions of the Supreme Court interpreting it. If the Congress had directed the Commission to do less than to adjust rates that would make a fair return, or if the Commission without direction had done less, the Act of Congress or the act of the Commission would have been in violation of plain duty and the clearest commands of the Constitution.

The only new thing or element in the paragraph last quoted is the authority given to the Commission to consider what rates will produce a fair return upon the value of the railroads as a whole or in groups instead of considering the railroads singly; and I assert without the least fear of successful contradiction that this authority tends to decrease rates rather than to increase them. More than ninety per cent of the transportation of the United States is competitive in its character, that is to say, that with respect to more than ninety per cent of the traffic the shipper has the choice between two or more railroads. It is apparent that for the welfare of the country substantially all our railroads must be sustained, and it has been the rule of the Interstate Commerce Commission for years to adjust rates upon competitive business accordingly. This necessary practice required rates that might while giving to one competing railroad a meager return, give to another excessive profits. It must be manifest that if rates are fixed upon the basis of maintaining railroads which have a higher cost of producing transportation than some of its rivals the whole level of rates would be a great deal higher than if they are fixed upon the basis of maintaining the railroads as a whole.

It is this national or group principle that is introduced in the paragraph quoted, and it is this principle which in addition to the suggestion I have already made with regard to the rate of return, which sustains my assertion that freight rates would in all probability have been higher in its absence during the whole period since the Transportation Act was passed, than they have been.

Most people who think at all upon this subject agree that the reasoning which I have laid before you is absolutely sound, and very few people claim that the rate of return fixed in the statute for two years as a fair return, or the rate of return since the expiration of the two years fixed by the Interstate Commerce Commission ($5\frac{3}{4}\%$) is too high; and it would be difficult to find a man with a sane mind but who would claim that the rate of return actually received by the railroads is high enough to escape the condemnation of the Supreme Court, if the question

had been submitted to that tribunal. The critics of the law have practically abandoned that part of their contention and have fallen back upon two other provisions which I will now consider.

It is said that the cost of the maintenance and operation of the railroads since their return to the owners has been excessive, and if these expenditures had been reasonable in amount the net operating income would have been greatly increased. Upon this point the Committee on Interstate Commerce of the Senate of which I am Chairman, has taken an immense volume of testimony. A report is about to be made and I will not anticipate its findings.

If these expenditures have been extravagant the fault is not to be attributed to the law. If the facts alleged were proven beyond controversy it would furnish no reason for a repeal or modification of the statute. The Transportation Act in the paragraph to which I have so often referred provides for such rates as "will, under honest, efficient and economical management and reasonable expenditures for maintenance of way, structures and equipment, earn," etc. If we can not trust the Interstate Commerce Commission to perform diligently and faithfully its duties in this respect then our whole plan of regulation by the Government is a failure.

Having a somewhat intimate knowledge of the work of the Commission I am prepared to say that it has done everything in this regard that it could have done. Of all the many tribunals and departments of the Government charged with the protection of the people against wrong doing there is no tribunal or department which labors more continuously or more intelligently than the Interstate Commerce Commission. I take pleasure in commending it with all my heart, and while I am conscious that it has made mistakes, for no earthly tribunal is infallible, I venture to say it commands the respect and confidence of the people to a greater degree than any other governmental body administering the laws of the country. In any event the criticism is not to be directed against the law and if there have been mistakes either of commission or omission in this respect they would have occurred in more serious form if the statute had not been enacted.

VALUATION OF RAILROAD PROPERTY.

The last objection insofar as rates are concerned, involves a subject upon which there has been more misapprehension and more misrepresentation, sometimes intentional and sometimes unintentional, than upon any other, grows out of the statement, current throughout the State, that the Transportation Act validates seven or eight billions of dollars of watered capitalization, and compels the people to pay a return upon seven or eight billions of dollars in excess of the actual value of the railroad

property. **This charge is flagrantly and obviously untrue**, but more honorable men and women have been deceived and misled by it than by any other part of the long continued campaign against the measure. The argument is, that even granting that the rate of return whether designated by Congress or designated by the Commission is reasonable or less than reasonable, when computed upon a value of \$18,900,000,000, it becomes excessive, when computed upon a value of \$12,000,000,000, the alleged market value of all railway stocks and bonds, and that rates could be reduced even though the cost of maintenance and operation is not reduced. The charge is accepted by great multitudes of the people without reflection because they know that there have been vast amounts of railway stocks issued without any consideration. No one has insisted more vigorously than I have that this practice should come to an end, and finally in the Transportation Act it was brought to an end. Everybody knows also that beginning with the first railway construction a very considerable amount of the funded or bonded indebtedness was issued without consideration, and I am glad to say that this vicious financing cannot occur under the Transportation Act. It is, however, a moral and economic crime to assert that because these things have been true that the railroad property of the United States which renders the service of transportation, taken as a whole, was over-valued by seven or eight billions of dollars by the Interstate Commerce Commission when it fixed the value for rate-making purposes at \$18,900,000,000.

If I cannot make this so plain that any intelligent human being can understand it I will forever despair of establishing the simplest problem in railway economics.

Let us first examine the provisions of the Transportation Act upon this subject. They are found in paragraph 4 of Section 422, which added Section 15a to the Act to Regulate Commerce. I quote it:

“(4) For the purposes of this section, such aggregate value of the property of the carriers shall be determined by the Commission from time to time and as often as may be necessary. The Commission may utilize the results of its investigation under Section 19a of this Act, insofar as deemed by it available, and shall give due consideration to all the elements of value recognized by the law of the land for rate-making purposes, and shall give to the property investment account of the carriers only that consideration which under such law it is entitled to in establishing values for rate-making purposes. Whenever pursuant to Section 19a of this Act the value of the railway property of any carrier held for and used in the service of transportation has been finally ascertained, the value so ascertained shall be deemed by the Commission to be the value thereof for the purpose of determining such aggregate value.”

Under this paragraph and in a proceeding properly instituted, known as Ex Parte 74, the Interstate Commerce Commission

found, on the 26th of August, 1920, that the railroad property of the United States was, as a whole, of the value of \$18,900,000,000. This value was found mainly, if not wholly, under an act passed in 1913, and which now constitutes Section 19a of the Act to Regulate Commerce. Senator Robert M. La Follette, of Wisconsin, was the author of the measure and it was proposed and passed for the sole purpose of giving to the Interstate Commerce Commission a basis upon which to fix rates. In 1920 the Commission had been engaged for seven years in making an inventory and assigning the values of both the real and personal property of the railroads, and had substantially completed its task. **It disregarded all stocks and bonds or other indebtedness and viewed the property just as it existed; in fact, the amount of stocks and bonds which any company had issued became absolutely immaterial.** The Commission looked upon the railroads as tangible physical property, no matter from what source the money creating it had been derived. It appraised the property precisely as one would appraise his farm with the buildings upon it or a town lot with its improvements. If there had been \$100,000,000,000 of stocks and bonds issued by the railroad companies it would have neither added to nor taken from the value of the property itself. The Supreme Court of the United States had definitely and finally laid down the rule of law for the ascertainment of the value of railroad property. It had declared in many cases that the value of personal property including all structures and improvements is the cost of reproduction less depreciation for age and use, and that the value of the real property or land was at least the value of similar areas of adjacent lands or lots with such additions as would represent the cost of acquiring the lands or lots for railway purposes. Proceeding in this way and in strict obedience to the Constitution and the decisions of the Supreme Court the Commission decided that the property was worth \$18,900,000,000. I may not agree, in fact I do not agree, that railway companies should enjoy the benefits of what is known as unearned increment, but the Supreme Court has decided that under the Constitution they are entitled to the increased value of land brought about by general growth and development, and Congress is powerless to change that decision, for the value of property and the elements which enter into that value are judicial and not legislative questions.

The Supreme Court has held that if a right-of-way is donated to a railroad company by the government or by an individual the value of that property is to be considered in determining the value of the entire property of that company. This may seem to be unjust. I think it is unjust, but the Supreme Court says that the Constitution demands it, and as a law-abiding citizen and a law-abiding Senator I accept the conclusion. Property not used for transportation purposes is of course not included in the value upon which rates are based.

At the risk of repetition I venture to state this proposition in another form, because the thing that rankles in the hearts of the people of this State is the feeling induced by the grossest misrepresentation that they are asked to pay a return to the owners of railroad capitalization upon seven or eight billion dollars of watered stock and bonds. If this were true and if there had been any lawful way in which the burden could have been lifted, I agree that the Congress which passed the Transportation Act and every member who voted for it merits nothing but the severest condemnation. **The only answer to the proposition is that it is not true, and men who make the statement, if they have studied the subject, are enemies of good government and men who accept it without inquiry fail in their plain duty as citizens of the Republic.**

The railroad property of the United States comprises 265,000 miles of main track road; it consists of right-of-way, land, road bed, bridges, side and second tracks, rails, ties, ballast, station houses, warehouses, elevators, round houses, shops, offices, elevated tracks, crossings, and scores of other structures necessary in the construction and operation of a railroad. It also consists of substantially 2,500,000 freight cars, hundreds of thousands of passenger, mail, and express cars, 70,000 locomotives, and an infinite variety of other forms of equipment. What is all this property worth? Take any particular company; the property which it uses in rendering the public service is worth just the same in the law whether it has issued fifty millions or a hundred millions of capitalization. The Supreme Court has said that it is worth for rate-making purposes what it would cost to reproduce it, less depreciation for obsolescence. **If, tested by this standard, the property of all the railroads is worth more than the aggregate amount of stocks and bonds, the railroads as a whole are entitled to that additional value; if the property is worth less than the stocks and bonds that have been issued by the various corporations, the excess of capitalization does not add a penny to the value of the property which renders the public service.**

GOVERNMENT OWNERSHIP.

Suppose those who advocate Government ownership should finally become a majority, and the Government would undertake to acquire the title to all railroad property. There are two ways in which it could be done: First, to condemn the physical property, in which event the value would be ascertained in precisely the way which the Interstate Commerce Commission has pursued. It could, however, acquire all the stocks and bonds and thus become the owner. If the latter plan were adopted every lawyer knows that these securities would be valued upon the hypothesis that the several roads were, as against any restriction by the Government, earning a fair return upon the value

of the property ascertained as already indicated, so that the outcome would be substantially the same in either case. The only way in which this result can be avoided is to abolish the Constitution and the Supreme Court. I grant that if we reach the time when the people are willing to adopt the policy of confiscation after having removed these hindrances to that policy, the Government can take the railroads with or without compensation, but until we reach that time it is absurd to insist that we can ascertain the value of railroads either by consulting the market value of their securities or by eliminating all the stocks that were ever issued without proper consideration and all the discount upon the bonds that were ever issued for less than par. Whatever you may think, or whatever I may think, with respect to the proper method of valuing such property may be dismissed for the question has been permanently adjudicated.

I have now given you what seems to me to be the material facts from which you must draw your conclusions upon the proposition I announced in the beginning, and very confidently I submit that no thoughtful man who desires to reach an honest conclusion can do otherwise than acknowledge that the Transportation Act which has been so furiously assailed is not the cause of the high rates, whether freight or passenger, which now prevail.

CAUSE OF HIGH RATES.

While it is not strictly pertinent to my present discussion the subject would not be complete if I were not to express my opinion with respect to the cause or causes of these rates. **They are due wholly to the increased cost of maintaining and operating the railroads.** The expenditures must be deducted from the gross revenues in order to reach the return contemplated by the statute, so that the higher the cost of maintenance and operation, the higher the rates must be. For the year 1920 the total operating revenues amounted to \$6,225,417,245; for the same year the total cost of maintenance and operation, including taxes and uncollectible revenue, was \$6,124,573,270. These expenditures consisted of maintenance of way and structures, \$1,030,503,557; maintenance of equipment, \$1,593,481,899; traffic, \$73,797,532; transportation, \$2,901,583,273; general, \$174,102,954, all other expenditures (including uncollectible revenues of about \$1,000,000), \$238,103,863. For the year 1921 the same items are: total operating revenues, \$5,563,232,215; total expenditures for maintenance and operation, \$4,835,593,114. To these expenditures there must be added for the year 1920, expenditures for equipment and joint facility rents, \$54,692,311, and for the year 1921, \$67,522,377.

These figures, taken from the records of the Interstate Commerce Commission, tell the whole story. Upon the same volume of business the cost of maintaining and operating a railroad was

a great deal more than twice the cost of maintenance and operation in 1917, and the situation was not essentially changed in 1921. To this fact, and to this fact alone, must be attributed the high freight rates of which shippers so bitterly complain, and it should be here noted that the increase in rates beginning with Government operation has been about 57%, while the increase in the cost of labor and railroad supplies has been 100% or more.

There have been some sharp criticisms upon the legitimacy of some of the expenditures for maintenance and operation since the roads were returned to their owners. I would like to discuss these things, but it is impossible to do it at this time. I repeat that objections of this sort are objections not to the law, but to the administration of the law by the Interstate Commerce Commission. That commission has full authority to examine every item of expenditure and to reduce or altogether expunge any item which has been either exaggerated or is wrongfully inserted in the accounting. I may be permitted to add, however, that if every item which has been challenged in a long and exhaustive hearing before the Committee, of which I am chairman, should be eliminated or modified, the total expenditure would be reduced less than one per cent. All this means, of course, that the revenues of the railroads cannot be constitutionally lessened in any substantial degree until the railroads themselves are able to reduce their expenses or the Government can compel a reduction and that is the matter to which the farmers should turn their attention rather than to assault upon the Transportation Act.

SHOULD THE GOVERNMENT GUARANTEE THE FARMERS A FIXED PRICE?

One further phase of the controversy deserves some consideration. It has been said that if the Government passes a law which provides that railroad rates must be so adjusted that they will yield a fair return upon the value of the railroad property, that the Government should likewise make some provision that would insure a market price for farmers' products that would yield to the farmers a fair return upon the value of their property. The Government has undertaken to fix the price of transportation and the Constitution says that the price must be so fixed that it will yield a fair return. It would greatly rejoice the railroad corporations if the Act to Regulate Commerce, including the Transportation Act, were repealed, and they be permitted to charge whatever they please, but I assume that there are very few people not connected with the railroads who would be willing to see this done.

I will not discuss the wisdom of putting the farmers of the country in the hands of the Government to the same extent as the railroads are. My judgment is that nothing could be more

disastrous to the agricultural interests, and so long as the farmers are at liberty to conduct their affairs in their own way there is, of course, no lawful basis for invoking the protection of that provision of the Constitution which forbids the taking of property for public use without just compensation. I am not unmindful of the fact that there are some powerful organizations advocating a movement for the transfer to the Government of all industry and all business, but it is not my purpose at this time to enter upon the many hued doctrine of state socialism.

REVIEW OF TRANSPORTATION ACT.

You, of course, know that what I have already said is a discussion of a very small, but exceedingly important part of the Transportation Act. I cannot close without giving you a general idea of the entire scope of the measure.

The first fourteen pages of the Act relate to the winding up of the affairs of the Railroad Administration. The importance of the provisions of this part of the Act cannot be over-estimated, and the utmost chaos would prevail if it were repealed, and yet the blind demand is that the entire legislation shall be set aside.

The next fifteen pages cover the establishment of the United States Railroad Labor Board for the settlement of disputes between railroad companies and their employees. I understand perfectly that the railway unions insist upon a repeal of these sections of the Act, and they do so because they fear that the Labor Board will continue to reduce their wages, and that strikes are not as likely to be successful against the judgment of the Board as they would be if there were no governmental tribunal to pass upon the justice of the disputes which from time to time arise. I think most of the railroads want the labor sections repealed, for obvious reasons, but it is inconceivable to me that the great body of the people who must in the end bear the expense of every strike or disturbance in transportation will lend their influence to the desires of these two selfishly interested parties. It may be that the Labor Board can be improved; but that we must have some tribunal to settle these disputes and do what we can toward preventing the interruption or paralysis of our transportation system is, I am sure, the judgment of the great majority of the people.

The remainder of the Transportation Act is made up of amendments to the Interstate Commerce Act, and consists of enlargements of the power of the Interstate Commerce Commission over the railroads.

Section 402 adds the most helpful and efficient regulation to the car service act giving the Commission the broadest powers over the movement of trains and the use of cars and locomotives. These additions and all others were earnestly recommended or cordially approved by the Commission. The authority of this section is at this moment being employed to save hundreds of

thousands of people from freezing during the coming winter, and scores of public utility plants from being shut down.

It also confers upon the Commission the power to prevent the construction of new lines of railroads where the public interest does not require them, and the abandonment of existing lines that are needed.

Section 404, among other things, empowers the Commission to require the common use of terminals if thereby the general welfare would be promoted.

Section 407 subjects contracts between railroads for a division of earnings to the jurisdiction of the Commission and provides a plan for the consolidation of all the railroads into a limited number of competitive systems.

Section 412 gives the Commission the authority to compel a physical connection, for the transfer of freight, between land and water carriers.

Section 416 prevents discrimination between interstate and intrastate rates and provides for close co-operation between the Interstate Commerce Commission and the State Commissions.

Section 422 I have already discussed so far as its effect upon rates is concerned, but it should be added that it contains a provision that if any railroad company earns more than six per cent, one-half of the excess is to be paid to the Government to be loaned to carriers to make our system of transportation more efficient or to purchase equipment to be leased to carriers to make our facilities more complete.

Section 439 gives to the Commission for the first time supervision of the issuance of railway stocks and bonds, and it will prevent for all time the harmful speculation in these securities. It also forbids any person from holding an office in two railway corporations unless the Commission finds that neither public nor private interests will be injuriously affected.

Section 440 enlarges the Commission to eleven members.

Section 441 secures a long desired co-operation between our domestic and our foreign transportation which every thoughtful, intelligent person agrees will be of the greatest value to the people of the United States.

I have mentioned but a few of the sections of which the Transportation Act is composed but I have referred to enough of them to show how blind and destructive the demand for the repeal of the Act becomes when examined in the light of reason and when tested by the common interest.

CONCLUSION.

When I began the preparation of this address it was within my purpose to outline the amendments which in my judgment should be made to the Transportation Act, but I must postpone that duty to a future occasion, for I have already exhausted your patience and drawn heavily upon my own strength. I close

this discussion with the final comment that when truth and reason resume their rightful sovereignty the people of Iowa and the country will clearly recognize that the promises now so lavishly made in denouncing the Transportation Act can be fulfilled only when the Constitution is trampled under foot, when the courts cease to perform their functions and when the United States is ready to walk in the footsteps of unfortunate, ill-fated Russia.

5-71
KF
2289
.3
C8

Cummins, Albert Baird
The transportation act,
1920

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY
